

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHRISTOPHER JAMES WILDER,

Defendant.

Case No.: 2:04-cr-476-RLH-RJJ

ORDER

(Motion for Habeas Relief under 28 U.S.C.
 § 2255– #141; Motion Requesting Judicial
 Notice– #145)

Before the Court is Defendant Christopher James Wilder’s Motion for an Order and Directions Granting Habeas Relief under the Rubric of 28 U.S.C. § 2255, (#141, filed on June 5, 2014), and an accompanying Motion Requesting Judicial Notice of Documents Making the Same as a Part of the Record in Support of Petition Currently for Court Review. (#145, filed on June 26, 2014). The Court has also considered Plaintiff United States’ opposition. (#146, filed on July 7, 2014). Defendant did not file a reply. For the reasons discussed below, the motion is denied.

Following an indictment and trial, on December 23, 2005, Defendant was sentenced to 235 months for being a felon in possession of a firearm with an Armed Career Criminal Act enhancement. (## 56, 61). Wilder appealed his conviction and sentence. This sentence was later upheld by the United States Court of Appeals for the Ninth Circuit. (#80).

1 In July 2008, Defendant filed a habeas corpus petition pursuant to 28 U.S.C. §
2 2255. (#94). The Court denied the motion. (#99). In November 2010, Defendant sought to reopen
3 the § 2255 petition. (#103). The Court denied the motion. (#106). Defendant appealed. (#108). The
4 Court denied a certificate of appealability. (#112). Defendant filed a motion for permission to file a
5 second § 2255 petition. (#117). The Ninth Circuit denied the request for a certificate of
6 appealability and the application for authorization to file a second or successive 28 U.S.C. § 2255,
7 (##124, 125).

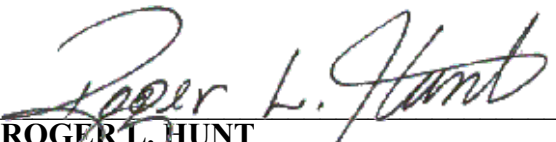
8 In March 2012, Defendant filed a motion to correct judgment. (#129). The Court
9 denied the motion and a certificate of appealability. (#131). Defendant appealed, and the Ninth
10 Circuit denied the certificate of appealability and all pending motions. (#136). Now, two years
11 later, Defendant has filed his second § 2255 petition, (#141), which is his third § 2255 request
12 because he was denied permission to file his second § 2255 petition. (#117). Defendant has not
13 obtained leave from the Ninth Circuit to file this successive petition.

14 Defendant's § 2255 motion is improper. Under 28 U.S.C. § 2255(h), "a second or
15 successive motion must be certified . . . by a panel of the appropriate court of appeals," before it
16 can be reviewed by the district court. As Defendant has not sought or obtained permission to file
17 this second § 2255 motion, the Court may not consider the petition and the motion must be denied.

18 Accordingly, and for good cause appearing,

19 IT IS HEREBY ORDERED that Defendant Christopher James Wilder's Motion for
20 an Order and Directions Granting Habeas Relief under the Rubric of 28 U.S.C. § 2255, (#141) is
21 DENIED.

22 Dated: July 23, 2014.

23
24 
25 **ROGER L. HUNT**
26 **United States District Judge**